



GOVERNMENT OF INDIA

Chandigarh Administration Gazette

Published by Authority

NO. 53] CHANDIGARH, FRIDAY, APRIL 30, 2021 (VAISAKHA 09, 1943 SAKA)

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 27th April, 2021

No. 13/1/9456-HII(2)-2021/4622.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 34/2018, dated 10.02.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

1. RAVINDER SINGH S/O SHRI JASWANT SINGH
2. GURSEWAK SINGH S/O SHRI MAHINDER SINGH
3. SATNAM SINGH S/O SHRI BHAG SINGH
4. KULDEEP SINGH S/O SHRI PREM KUMAR
5. KARAMJIT SINGH S/O SHRI PARKASH SINGH
6. KAMLESH KUMAR S/O SHRI RAM DEV
7. RAVINDER SINGH S/O SHRI HARPAL SINGH
8. SUKHVIR SINGH S/O SHRI MAHINDER SINGH
9. SURJIT RAM S/O SHRI SUNDER RAM
10. KAKA SINGH S/O SHRI BIR SINGH
11. SATVIR SINGH S/O SHRI HARBAND SINGH
12. RAJ KUMAR S/O SHRI DHANI RAM
13. SONU S/O SHRI RAM KISHORE
14. SHIVESH CHANDER S/O SHRI CHANDER MUNI CHAMKANI
15. JOGINDER KUMAR SHARMA S/O SHRI MADAN MOHAN SHARMA
16. NARINDER SINGH S/O SHRI JASWANT SINGH
17. RUPINDER SINGH S/O SHRI TARLOCHAN SINGH
18. JAGAR SINGH S/O SHRI JAGIR SINGH
19. HARKIRAT SINGH S/O SHRI DESRAJ SINGH
20. DALBARA SINGH S/O SHRI AMAR SINGH
21. SURINDER SINGH S/O SHRI AJMER SINGH

Signature Not Verified.
Digitally signed by
Jalinder Kumar
Date: 2021.04.30
15:40:03 IST
Reason: Published
Location:

(265)

*This is Digitally Signed Gazette. To verify, visit :
<https://egazette.chd.gov.in>*

22. DHARAMPAL S/O SHRI PREM SINGH
23. PREM SINGH S/O SHRI JOGINDER SINGH
24. GURPREET SINGH S/O SHRI GURMEET SINGH (Workmen)

AND

1. CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT, BUILDING & ROADS, (ELECTRICAL WING), PUNJAB, SCO NO. 33, 3RD FLOOR, SECTOR 17-E, CHANDIGARH.
2. PUNJAB EX-SERVICEMAN CORPORATION (PESCO), SCO NO.89-90, SECTOR 34-A, CHANDIGARH (Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9456-HII(2)-2018/6541, dated 04.05.2018.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9456-HII(2)-2018/6541, dated 04.05.2018 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 15.02.2018 by Shri Ravinder Singh S/o Shri Jaswant Singh, Shri Gursewak Singh S/o Shri Mahinder Singh, Shri Satnam Singh S/o Shri Bhag Singh, Shri Kuldeep Singh S/o Shri Prem Kumar, Shri Karamjit Singh S/o Shri Parkash Singh, Shri Kamlesh Kumar S/o Shri Ram Dev, Shri Ravinder Singh S/o Shri Harpal Singh, Shri Sukhvir Singh S/o Shri Mohinder Singh, Shri Surjit Ram S/o Shri Sunder Ram, Shri Kaka Singh, S/o Shri Bir Singh, Shri Satvir Singh S/o Shri Harband Singh, Shri Raj Kumar S/o Shri Dhani Ram, Shri Sonu S/o Shri Ram Kishore, Shri Shivesh Chander S/o Shri Chander Muni Chamkani, Shri Joginder Kumar Sharma S/o Shri Madan Mohan Sharma, Shri Narinder Singh S/o Shri Jaswant Singh, Shri Rupinder Singh S/o Shri Tarlochan Singh, Shri Jagar Singh S/o Shri Jagir Singh, Shri Harkirat Singh S/o Shri Desraj Singh, Shri Dalbara Singh S/o Shri Amar Singh, Shri Surinder Singh S/o Shri Ajmer Singh, Shri Dharampal S/o Shri Prem Singh, Shri Prem Singh S/o Shri Joginder Singh, Shri Gurpreet Singh S/o Shri Gurmeet Singh AND 1. The Chief Engineer, Public Works Department Building and Roads, (Electrical Wing), Punjab, SCO No.33, 3rd Floor, Sector 17-E, Chandigarh. 2. The Punjab Ex-Serviceman Corporation (PESCO), SCO No.89-90, Sector 34-A, Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Shri Ravinder Singh & Others (hereinafter called 'workmen') had served demand notice dated 15.02.2018 upon the Chief Engineer, Public Works Department Building & Roads, (Electrical Wing), Punjab & Another (hereinafter called 'management') under Section 2(k) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act'). Upon notice, the workman appeared through their representative. Statement of claim was filed. Case of the workmen in brief is that they had served a demand notice dated 15.02.2018 under Section 2(k) of the ID Act upon the management, who is the principal employer of the workmen and also upon the contractor by raising various demands. The main demand of the workmen is that they were appointed on the post of Electrician, Generator Operator and Sub-Station Attendant and their salary was reduced from ₹ 15,573/- to ₹ 11,470/- from the month of June 2017 illegally, which have been getting from the management, prior to the period of June 2017. The present dispute is raised by the substantial number of workmen, who are working in the department, for redressal of their grievances as there is no union of the workers in existence at present in the department. The conciliation proceedings in respect of the demand notice were initiated by the

Conciliation Officer, Union Territory Chandigarh and the same were concluded with the failure report dated 22.03.2018. The appropriate Government has referred the dispute, raised by the workmen in their demand notice dated 15.02.2018 *vide* reference order dated 04.05.2018. Workman No.1 to 10 were engaged by the management after taking their interview like the process of regular selection against the vacant post, on daily wage basis as Electrician, Generator Operator and Sub-Station Attendant, without any written appointment letter. The attendance of the workmen used to mark by the management some time on the muster roll and some time on the attendance register. The salary of the workmen was some time paid by the management directly and sometime through the contractor. Workman No.1 to 10 have already been working with the management, on the post of Electrician and Generator Operator, from the date of their appointment as mentioned below and again got appointed through the contractor by way of unfair labour practice, to discontinue their service with an oblique motive. Workman No.11 to 23 were got engaged by the management through management No.1 and they are also working under the kind supervision and control of the management. The workmen are working under the supervision and control of the managements and their attendance is marked under the supervision of S.D.E. / J.E. of the Department. The service particulars of the workmen are as under :—

Sr. No.	Name of the workmen	Father's Name	Designation	Date of Appointment
1.	Ravinder Singh	Jaswant Singh	Electrician	01.03.2007
2.	Surinder Singh	Ajmer Singh	-do-	01.04.2001
3.	Kuldeep Singh	Prem Kumar	-do-	01.03.2001
4.	Kaka Singh	Bir Singh	-do-	01.06.2016
5.	Jagar Singh	Jagir Singh	-do-	01.04.2007
6.	Harkirat Singh	Desraj Singh	-do-	01.04.2007
7.	Gursewak Singh	Mohinder Singh	-do-	01.01.2008
8.	Satnam Singh	Bhag Singh	-do-	01.10.2008
9.	Satvir Singh	Harbans Singh	-do-	01.06.2009
10.	Dharam Pal	Prem Singh	Generator Optr.	01.04.2002
11.	Raj Kumar	Dhani Ram	Electrician	01.03.2013
12.	Surjit Ram	Sundar Ram	-do-	01.03.2013
13.	Dilbara Singh	Amar Singh	-do-	01.03.2013
14.	Sonu	Ram Kishore	-do-	01.03.2013
15.	Karamjit Singh	Parkash Singh	-do-	15.04.2013
16.	Narinder Singh	Jaswant Singh	-do-	15.04.2013
17.	Kamlesh Kumar	Ram Dev	-do-	15.04.2013
18.	Joginder K. Sharma	Madan M. Sharma	-do-	22.04.2013
19.	Ravinder Singh	Harpal Singh	-do-	06.05.2014
20.	Sukhvinder Singh	Mohinder Singh	-do-	12.08.2014
21.	Rupinder Singh	Tarlochan Singh	S.S.A.	01.04.2014
22.	Prem Singh	Joginder Singh	Generator Optr.	07.07.2014
23.	Gurpreet Singh	Gurmeet Singh	-do-	06.10.2015

Workman No.1 again got appointment by the management with effect from 01.03.2007 to the post of Electrician, on the basis of his practical experience gained by him, during the service with the management and on the basis of private work done by him, *vide* appointment letter dated Nil with effect from 01.03.2013. Similarly workman No.2 also again got appointed by the management on the post of Electrician through management No.2 with effect from 15.04.2013. Workman No.3 was again got appointed by the management through management No.2 on the post of Electrician, *vide* appointment letter dated 18.04.2013. Workman No.4 was also again got appointed by the management through management No.2 on the post of Electrician, *vide* appointment letter dated 28.02.2013. Workman No.5 also again got appointed by the management through management No.2, on the post of Electrician, *vide* appointment letter dated 22.04.2013. Workman No.6 also again got appointed by the management through respondent No.2, on the post of Electrician, *vide* appointment letter dated 25.04.2013. Workman No.7 also again got appointed by management through management No. 2, on the post of Electrician *vide* appointment letter dated 16.04.2013. Workman No.8 also again got appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 16.04.2013. Workman No.9 also again got appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 25.04.2013 and workman No.10 also again got appointed by the management through management No.2 on the post of Generator Operator *vide* appointment letter dated 22.01.2013. Workman No.1 to 10 have already been working with the management and their alleged appointment through management No.2 is novel and unique method of unfair labour practice on the part of the management.

Workman No.11 namely Shri Raj Kumar was appointed by management No.2, on the post of Electrician *vide* appointment letter dated 22.02.2013 on contract basis and working with the management from the date of his appointment. Similarly No.12 namely Shri Surjit Ram was also appointed by management No.2 on the post of Electrician *vide* appointment letter dated 01.03.2013 on contract basis. Similarly workman No.13 namely Dalbara Singh was also appointed by management No.2 on the post of Electrician *vide* appointment letter dated 01.03.2013 on contract basis. Workman No.14 namely Shri Sonu was also appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 22.02.2013 on the contract basis. Workman No.15 namely Shri Karamjit Singh was also appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 15.04.2013 on contract basis. Workman No.16 namely Shri Narinder Singh was also appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 30.04.2013 on contract basis. Workman No.17 namely Shri Kamlesh Kumar also got appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 15.04.2013 on contract basis. Workman No.18 namely Shri Joginder Kumar Sharma was also appointed by management No.2 on the post of Electrician on contract basis. Workman No.19 namely Shri Ravinder Singh was also appointed by the management through management No.2 on the post of Electrician with effect from 06.05.2014 on contract basis. Workman No.20 namely Sukhbir Singh was got appointed by the management through management No.2 on the post of Electrician *vide* appointment letter dated 12.08.2014 on contract basis. Workman No.21 namely Shri Rupinder Singh was also appointed by the management through management No.2 on the post of S.S.A. *vide* appointment letter dated 03.04.2014 on contract basis. Workman No.22 namely Shri Prem Singh was also appointed by the management through management No.2 on the post of Generator Operator *vide* appointment letter dated 07.02.2014 on contract basis and workman No.23 namely Shri Gurpreet Singh was also appointed by the management through management No.2 on the post of Generator Operator *vide* appointment letter dated 05.10.2015 on contract basis, who is also having diploma certificate in the course of Mechanical Engineering. All the workmen are presently working with the management against the regular vacant and sanctioned posts.

All the workmen have been in service with the management and performing their duty on the post of Electrician, Generator Operator and Sub-station Attendant for the last so many years. Work & conduct of the workmen throughout their service is very good and always appreciated by the higher authorities from time to time. Workman No.1 to 10 are in service with the management for the last more than 10 years. The duties of

the workmen are interchangeable with their regular parts. The candidature of workman No.6 namely Shri Harkirat Singh was recommended by the Sub-Divisional Engineer, Electrical Sub-division No.3, PWD, Building & Roads, Punjab, Chandigarh to be appointed as Sub-Station Attendant in place of Shri Susheel Kumar, Sub-Station Attendant *vide* letter dated 19.05.2014. The entry pass for performing the duties in Mini-Secretariat by the workmen is always issued to the workmen on the basis of counter signed of Sub-Divisional Engineer of the department. The salaries of the workmen were reduced by the management with effect from 01.06.2017 without any notice to the workmen. The workmen were getting their salary prior to the period of 01.06.2017 as per the DC rates on the skilled posts, which they are performing and now the management is paying ₹ 11,470/-, which is meant for the post of Helper. The workmen are entitled to get their salary ₹ 15,573/- per month whereas they have been paid ₹ 11,470/- per month only by the management. There is a difference of ₹ 5,455/- per month with effect from 01.06.2017. The workmen, who are performing their duties, on the post of Electrician, Generator Operators and Sub-Station Attendants and are being paid lesser salary of Helper. The management being principal employer is liable to pay the difference of amount to the workmen as per the provisions of Contract Labour (Abolition & Regulation) Act, 1970. The management has also stopped to pay the bonus at the rate 8.33% per annum illegally, arbitrarily and discriminatory to the workmen, which is being paid to the similarly situated employees, who are working in the same department at Moga and other places of Punjab State. The contract system adopted by the management is sham or merely a camouflage, to deny the employment benefits, to all the workmen, which is absolutely wrong and unfair labour practice on the part of the management. It is the practice of the management to pay the salary to the workmen through a contractor. The management has replaced so many contractors during the tenure of service of workman N.1 to 10. The impugned action of the management by reducing their salary of the workmen from ₹ 15,573/- per month to ₹ 11,470/- per month with effect from 01.06.2017 is arbitrary, illegal and against the provisions of Article 14 and 16 of the Constitution of India and not sustainable in the eyes of law. All the workmen have been demoted from their skilled post to the post of Helper by granting less salary without passing any order by the management. The action of the management is also in violation of the appointment letters issued by the management to all the workmen. The workmen are still performing their duties on the post of Electrician, Generator Operator and Sub-Station Attendant so there is no justification to pay them salary of the Helper. There is another instance of discrimination in the case of the workmen as the similarly situated employees namely Shri Aashis, S/o Shri Dalip Kumar and Shri Gagandeep Singh S/o Shri Gurnam Singh, who are working in the same department at Chandigarh are getting their salary on the post of Computer Operator, without there being any reduction in their salary. Both these employees also do not possess any qualification and were initially appointed as Electrician and their designation was now changed by the management as Computer Operator. *Vide* letter dated 21.07.2017 the Sub-Divisional Engineer of the department had also requested the Executive Engineer of the department to consider the case of the workmen for skilled posts on the basis of experience gained by them during their service as all the performing their duties on the post of SSA / Technician / Lift operator and Generator Operator. There is another instance of discrimination with the present workmen by the management that in the same department at Moga Sub-Division unqualified workers are working on the posts of Electrician, Lift Operator and getting their salary on the skilled post as reflected from the list of employees issued by the department on 11.12.2017. The Punjab State has framed various labour policies and issued various instructions, for the grant of temporary / permanent status to the skilled / unskilled workers on account of their working in the establishment after the completion of three years, five years and ten years service or so and so on forth. In the present case, the workmen are working in the Department of Public Works Department, Building & Roads (Electrical Wing), Punjab for the last so many years on the skilled posts and they have been demoted to the lower post of Helper and their salaries have been reduced without any valid justification. The workmen are not getting the benefit of Gazetted holidays like other employees and they are entitled to get the consequential benefits in lieu of their working on gazette holidays apart from the annual bonus. The workmen had made their detailed representations dated 06.10.2017 to the Labour Commissioner with request that they have been working against the skilled post with the management for the last 8 to 10 years and their salary has been reduced by the management without any valid reason on the ground that the workmen does not possess the requisite qualification. A copy of the said representation was also sent to the management and the contractor along with

the list of employees. It is settled law of land that the practical experience gained by the employee during his service itself is a qualification. The salary of the workmen cannot be reduced on the ground that they do not possess the qualification as they are working with the management and handling the skilled post for the last so many years. The workmen are getting only weekly rest and are under obligation to work on holidays to handle the work. The workmen are also entitled to be considered for regularization of their services on account of their length of service in the department including the benefits of leave encashment, in view of various instructions issued by the State of Punjab from time to time. Ultimately, it is prayed that the claim of the workmen be allowed and the management be directed to pay the difference of salary with effect from 01.06.2017 along with interest at the rate 12% per annum and to continue to pay the salary to the workmen in future with enhancement of their salary as per DC rates, which was revised from time to time, to the skilled post as per the appointment letters of the workmen issued by the management.

3. Management No.1 contested the case of the workmen and filed written statement raising preliminary objection that no cause of action has arisen to the workmen against the answering management as there is no master-servant relationship between the workmen and the management, being engaged by the contractor i.e. management No.2. On merits, it is pleaded that the workman had filed the demand notice under Section 2(k) of the ID Act before the authority and the answering management had contested the same on merits. Since the workmen were never directly engaged nor any appointment letter was issued by the answering management so there was no occasion to accept the demands of the workmen by the answering management. There is complete ban on the engagement of casual labour / labour so the answering management as per policy of the Government entered into an agreement with management No.2 and with various other contractors from time to time who used to provide labour for the specified work / job as per the requirements under the contract which has been admitted by the workmen and the work of maintenance and such other allied works are carried out. The answering management had not initiated any process of selection like interview etc. as alleged in respect of workmen in issue much less against any vacant post. The attendance is marked by the management being the principal employer who verify the attendance of the labour and send it to the contractor for the release of their permissible wages. The work under the contract has been entrusted to the contractor and the deployed labour used to carry out the work under the control of the contractor agency. There was no occasion to pay the salary to the workmen by the answering management. The answering management had entered into agreement with the management No.2 and various other contractors from time to time who used to deploy labour for carry out the work under the contract as per requirements. If the work is not undertaken satisfactorily, in that eventuality the answering management used to convey the same to the concerned contractor who has control over the labour and used to get the work done through another specialized person. Engagement of the labour or its experience, qualification, time spent to gain experience throughout years is the sole prerogative of the contractor who has to ensure quality of work and how to utilize the maximum experience of a specified person and on which project one has to be deployed for yielding efficiency as per the qualification and experience of the labour. Since the workmen were deployed through contractor and the work is to be carried out at Mini-Secretariat, Main Secretariat and other Punjab Government Offices which are sensitive areas and where the normal entry cannot be allowed so entry passes were made for their smooth entry into the premises and for carrying out the work of maintenance. Agreement entered between the answering management and management No.2 is neither camouflage nor against public policy and the same incorporates the provision that the salary and the allied charges to the PESCO manpower will be paid as per DC rates applicable in Chandigarh and Minimum Wages applicable in the State of Punjab. The concerned Officer has only apprised the higher authority about the action taken by management No.2. As per directions of the Hon'ble Apex Court in Uma Devi Case, a one time measure was made and the eligible persons were duly considered and regularized. The present reference is not related to regularization. Other averments of the case of the workmen were denied.

4. Management No.2 contested the case of the workman and filed written statement raising preliminary objection that answering management i.e. PESCO receives need based contracts for supply of workforce on contract basis for specified periods, against which suitable and eligible personnel are deployed as per agreement

and statutory compliances. Pursuant to the award of a legal and valid outsourcing contract to PESCO by the Electrical Division, Punjab Public Works Department (B&R Branch), the workmen have been engaged on contractual basis for specific period by the answering contractor on terms & conditions of the employment defined in their respective offers of appointments. Having accepted their terms of employment pursuant to the offers of appointments, having worked pursuant thereto for substantial period, the workmen have to adhere to the terms & conditions of the agreement. Eighty workmen were appointed on contractual basis as Electrician / Generator Operator / Sub-Station Attendant during 2013 & 2014 respectively. The Executive Engineer, Electrical Division, Punjab Public Works Department (B&R Branch) through its letter No.1190 dated 04.05.2017 along with a detailed list of outsourced workmen had informed the answering contractor about the decision taken by the Punjab Government that the workmen who did not fulfill the qualification criteria of the respective categories are not eligible for appointment against the trade / category and that with effect from 01.05.2017 be appointed as Helpers. The concerned workmen were informed about the same and explained that their employment at their present place of posting as Electrician / Generator Operator / Sub-Station Attendant cannot continue and would have to be dispensed with based on qualification criteria. The workmen requested not to dispense their services and agreed to work as Helpers and accept the wages & emoluments as admissible to the said post. They were designated on the posts of Helpers and thereafter discharging the duties of Helpers and receiving the wages payable for it. On merits, it is pleaded that the workmen have been engaged on contractual basis for specific period by the answering management on terms & conditions of employment defined in their respective offers of appointments pursuant to legal and valid outsourcing contracts award to it. Having accepted their terms of employment pursuant to the offers of appointments, having worked pursuant thereto for substantial period, the workmen are required to adhere to the terms & conditions of the agreement. All the legal dues and benefits admissible to workmen are being paid to them and there is no violation thereof by the answering management. Other averments of the case of the workmen were denied and ultimately, it is prayed that the claim of the workmen be dismissed.

5. The workmen filed replications reiterating the averments of their case and denied the averments made in written statements. From the pleadings of the parties, following issues were framed :—

1. Whether the demand raised in the demand notice dated 15.02.2018 made by the workmen is genuine and justified, if so, to what effect and to what relief the workmen are entitled to, if any ?
OPW
2. Whether there is no master-servant relationship between the workmen & management No.1 ?
OPM-1
3. Relief.

6. In support of the case, the workmen examined Shri Ravinder Singh as AW1 and closed the evidence. On the other hand, management No.1 did not lead any evidence and closed the same. Management No.2 examined Lt. Col. D. P. S. Waraich - Deputy General Manager (Security) as MW1. Learned representative for management No.2 closed the evidence.

7. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No.1 & 2 :

8. Both these issues are taken up together in order to avoid repetition of discussion for the sake of convenience. In order to prove their case, the workmen examined Shri Ravinder Singh - Electrician as AW1, who deposed that he and twenty two others had served the demand notice dated 15.02.2018 under Section 2(k) of the ID Act, upon the management being principal employer and the contractor by raising various demands. The main demand of the workmen is that they were appointed on the post of Electrician, Generator Operator and Sub-Station Attendant and their salary was reduced from ₹ 15,573/- to ₹ 11,470/- from the month of June 2017. The total strength of skilled category in the department through outsourcing agency is about 78

and out of these 23 skilled category workers are raising their dispute under Section 2(k) of the ID Act for redressal of their grievances as there is no union of the workers exists in the department. The conciliation proceedings were initiated by the Conciliation Officer, Union Territory Chandigarh and were concluded with the failure report dated 22.03.2018 Exhibit 'W1'. The appropriate Government has referred the dispute by the workmen *vide* reference order dated 04.05.2018 Exhibit 'W2'. He deposed that workman No.1 to 10 were engaged by management No.1 after taking interview like the process of regular selection against the vacant post on daily wage basis as Electrician, Generator Operator and Sub-station Attendant without any written appointment letter but later on again got appointed through contractor by way of unfair labour practice. Workman No.11 to 23 were got engaged by management through management No.2 and they are also working under the supervision and control of management. Copy of appointment letters of the workmen are Exhibit 'W3' to 'W22'. The candidature of workman No.6 namely Shri Harkirat Singh was recommended by the Sub-Divisional Engineer, Electrical Sub-Division No.3, PWD (B&R), Punjab, Chandigarh to be appointed as Sub-Station Attendant in place of Shri Susheel Kumar - Sub-Station Attendance *vide* letter dated 19.05.2014 Exhibit 'W23'. Shri Harkirat Singh is performing his duties against the vacant of post Shri Susheel Kumar. The entry pass for performing the duties in Mini Secretariat by the workmen is always issued to them on the basis of countersigned of Sub-Divisional Engineer of the department. Photocopy copy of entry pass is Exhibit 'W24'. He further deposed that the salaries of the workman were reduced by the management with effect from 01.06.2017 in an illegal manner, without any notice to the workmen. The workmen were getting their salary prior to the period of 01.06.2017 as per the DC rates on the skilled posts, which they are performing and now the management is paying ₹ 11,470/- which is meant for the post of Helper. The chart prepared by the workman after getting data for the Labour Department is clearly showing the difference of pay prior to the period 01.06.2017 with the difference of salary is being paid by the management to the workman Exhibit 'W25'. As per the chart, the workman are entitled to get their salary of ₹ 15,573/- per month whereas they have been paid ₹ 11,470/- per month. In the year 2013, management No.1 introduced a novel method of contract appointment through management No.2. The management had replaced so many contractors during the tenure of the service of workman No.1 to 10. He further deposed that the workmen are working in the department against skilled category and the appointment of the workmen made by the management is clearly establishing that they have been engaged to handle the technical job. Impugned action of the management by reducing their salary of the workmen from ₹ 15,573/- per month to ₹ 11,470/- per month with effect from 01.06.2017 is arbitrary, illegal and against the provisions of Article 14 & 16 of the Constitution of India. He also deposed that all the workmen have been demoted from their skilled post to the post of Helper by granting less salary without passing any order by the management. The workmen are still performing their duties on the post of Electrician, Generator Operator and Sub-Station Attendant so there is no justification to pay them salary in the designation of Helper. He further deposed that *vide* letter dated 21.07.2017 Exhibit 'W26', the Sub-Divisional Engineer of the department has also requested the Executive Engineer of the Department to consider the case of the workmen for skilled posts on the basis of experience gained by them during their service as all are performing their duties on the posts of SSA / Technician / Lift Operator and Generator Operator. There is another instance of discrimination with the present workmen by the management that in the same department at Moga Sub-Division, unqualified workers are working on the posts of Electrician, Lift Operator and getting their salary on the skilled post as reflected from the list of employees, issued by the department on 11.12.2017, photocopy of the same is Exhibit 'W27'. He further deposed that the Punjab State has framed various labour policies and issued various instructions, for the grant of temporary / permanent status, to the skilled / un-skilled workers, on account of their working in the establishment after the completion of three years, five years and ten years service or so and so on forth. The present workmen are working in the Department of Public Works Department, Building & Roads (Electrical Wing), Punjab for the last so many years on the skilled posts and they have been demoted to the lower post of Helper and reduced their salary without any valid justification. The workmen had made the detailed representation dated 06.10.2017 to the Labour Commissioner regarding reduction in salary by the management without any valid reason. Copy of representation is Exhibit 'W28'. Further the workmen served the demand notice dated 15.02.2018 with the demand to pay them salary of ₹ 15,573/- minus ₹ 11,470 with effect from 01.06.2017 on the post of

Electrician, Generator Operator and S.S.A., which was withheld by the management in an illegal manner and also to consider the case of the workmen for regularization of their service on the basis of experience. Copy of demand notice is Exhibit 'W29'. The Department of Labour, Government of Punjab *vide* notification dated 15th November 2012 has revised the minimum rates of wages in the State of Punjab after consulting the Punjab Minimum Wages Advisory Board and has explained the definition of skilled work Exhibit 'W30'. He further deposed that the Punjab Government, *vide* notification dated 24.12.2016 has notified the Punjab Act No.55 of 2016 and introduced the Punjab Adhoc, Contractual, Daily Wage, Temporary, Work Charged and Outsourced Employee's Welfare Act, 2016. Clause 2(b) of the said Act defined the 'outsourced employee' means an employee taken on the roll of the State Government or its entities through a private manpower agency for performing duties assigned to him from time to time. Clause 6(2) of the said Act has prescribed that the persons taken on contract under this section shall entitled to draw the same salary as was being paid to him by the private manpower agency. Photocopy of the same is proved as Exhibit 'W31'.

9. Learned representative for the workmen has argued that all the workmen were appointed on the post of Electricians, Generator Operators and Sub-station attendant and their salary was reduced from ₹15,575/- to ₹ 11,470/- from the month of June 2017 illegally. All the workmen are still doing their job as per appointment letter on the skilled posts and working under the supervision & control of management. He further argued that the workmen No.1 to 10 were already working in the management and were got appointed through the contractor as per their unfair labour practice. All the workmen were appointed on skilled posts as per record Exhibit 'W3' to 'W22'.

10. Learned representative for the workmen has further argued that no notice was issued by management or by management No.2 to the workmen for reduction of their salary. No written order was passed to reduce the salary of the workman. No inquiry was conducted before reducing the salary and demotion of the workmen to the post of Helper from the post of Electricians, Generator Operators and Sub-station Attendants, which they are still holding in department. No opportunity of hearing was affording to the workman before taking the impugned action. The workmen served the demand notice dated 15.02.2018 Exhibit 'W29'. Copy of complaint dated 06.10.2017 made to the Labour Commissioner, Chandigarh is Exhibit 'W28'. The conciliation proceedings were initiated by the Conciliation Officer and failure report dated 22.03.2018 Exhibit 'W1' and dispute was referred by the appropriate Government for its adjudication by this Court Exhibit 'W2'. He further argued that the workman produced cogent and convincing documentary evidence as Exhibit 'W1' to 'W31' on the record of the case to prove their case. Management No.1 had not led any evidence. Management No.2 produced documentary evidence Exhibit 'R2/1' but it does not prove the case. He referred to cross-examination of MW1. He further argued that pleadings taken by the workmen are admitted by the management. No such contract was placed on record by the management. The attendance is marked by the management being principal employer who verify the attendance of the labour and sent to the contractor for release of their permissible wages. He has placed reliance on citation **State of Punjab Versus Jagjit Singh, 2017(1) SCC 148 (SC)** in which it is held that any act of paying less as compared to the other similarly situated constituents as act of exploitative enslavement, emerging out of a domineering position. Undoubtedly the action is oppressive, suppressive and coercive, as it compels involuntary subjugation. He also placed reliance on citation **Bhagwait Parsad & Others Versus Delhi State Mineral Corporation, 1992(9) SLR 785** the Hon'ble Constitution Bench of Supreme Court has held that practical experience would also aid the persons to effectively discharge the duties and his confirmation cannot be refused on the ground that they lacked prescribed qualification. Reliance is also made on citation **Gujarat Agricultural University Versus Rathod Ladhu Bechar, A.I.R. 2001 Supreme Court 706** wherein it was held that once the appointment were made as daily rates workers and they were allowed to work for a considerable length of time, it would be hard and harsh, to deny them the confirmation in the respective posts, on the ground that they lack the prescribed educational qualification. So in view of their long experience on the fact of this case and for concerned posts, the prescribed qualification, if any, should not come in the way of their regularization. Reliance is also made on citation **Buddhi Nath Chaudhary Versus Abahi Kumar, AIR 2001 Supreme Court 1176** wherein it was held that lack of experience, if any, at the time of

recruitment is made good and by working on a post, dispensing with the services of candidates after years together, on the ground of requisite experience at the recruitment will lead to anomalous results. Experience on a post is good substitute of the qualification. He further placed reliance on citation **D. K. Yadav Versus M/s J.M.A. Industries Limited, 1993(3) Service Cases Today 537 (SC)** wherein it was held that an order visiting the employee concerned with the civil consequences, jeopardizing his right to livelihood and career cannot be passed without complying with the principles of natural justice. He also placed reliance on citation **Ashu & Another Versus State of Haryana, 2016(1) Service Cases Today 577 (Pb. & Hry.)** wherein it is held that once the orders of regularization have been passed in favour of the petitioners, the same cannot be withdrawn without giving any opportunity of hearing, which is the basic requirement of principles of natural justice. Reliance is also placed on citation **Jitu Ram & Others Versus State of Punjab, 2012(4) Service Cases Today 708 (Pb. & Hry.)** wherein it is held that no order which entails adverse civil consequence can be passed without affording an opportunity of hearing, to the concerned employee. He also placed reliance on citation **Om Parkash Versus State of Haryana, 2016(2) SLR 109 (DB PB. & Hry.)** wherein it is held that impugned order is not sustainable being discriminatory and in violation of Articles 14 & 16 of the Constitution of India. Concluding his arguments learned representative for the workman has argued that the claim made by the workmen is perfectly valid and justified so the same be answered in favour of the workmen.

11. On the other hand, management No.1 did not led any evidence and simply argued that the present industrial dispute is not maintainable against management No.1 as the workman has been engaged by Punjab Ex-servicemen Corporation (PESCO) being the contractor, who exercises the supervision and direct control over them. The workmen have neither been employed by management No.1 directly nor have been paid wages by management No.1. The workmen have been provided by Punjab Ex-Servicemen Corporation to carry out the work of maintenance and such other allied work under the policy of the Government as there is complete ban on engaging any casual labour. Management No.1 from time to time has been entering into the contract agreement with different contractors for supply of labour for specific work / job as per requirement. Presently, management No.2 is one of such contractor, who has engaged the workmen. All the contracts by management No.1 with the contractors entered after following due process and upon taking due sanction from the competent authority. Since the contract between management No.1 and management No.2 is not disputed by the workman so there is no need to produce it on record. He further argued that the workmen had deliberately suppressed the fact. In the demand notice dated 15.02.2018 they had claimed regularization of their service and sought consideration as per qualifications in addition to their claim for difference of pay whereas in the claim statement they had restricted to the claim of difference of pay so instant reference is not maintainable. Management No.1 has not initiated any process of selection like interview etc. as alleged in respect of the workmen in issue much less against any vacant post. There was no occasion to pay salary to the workman by management No.1 as the contract between management No.1 & 2 is unlawful, legal & valid. He further argued that the engagement of labour or its experience, qualification, time spent to gain experience throughout the year is the sole prerogative of the contractor who has to ensure quality of work and how to utilize the maximum experience of specific person. Management No.1 is not instrumental in its reckoning. Admittedly, the workmen are entitled to receive the wages as per DC rates applicable to Chandigarh and minimum wages applicable in the State of Punjab. The notification of wages defined various categories. The wages being paid to the workmen are based on qualification, length of service and experience. He prayed for dismissal of the reference *qua* management No.1.

12. Management No.2 examined Lt. Col. D. P. S. Waraich - Deputy General Manager (Security) as MW1, who deposed that the Punjab Ex-servicemen Corporation (PESCO) has been incorporated under the 'Punjab Ex-Servicemen Corporation Act, 1978' for the welfare and economic upliftment of ex-servicemen in the State of Punjab. In this direction, and to achieve the said objectives, PESCO receives need based contracts for supply of workforce on contract basis for specified periods, against which eligible personnel are deployed as per agreements and statutory compliance. He further deposed that pursuant to the award of a legal & valid outsourcing contract to PESCO by the Electrical Division, Punjab Public Works Department (B&R Branch), the workmen have been engaged on contractual basis for a specific period on the terms &

conditions of employments defined in their respective offers of appointments. 80 workmen were appointed on contractual basis as Electricians, Generator Operators, Sub-Station Attendants during 2013 & 2014 respectively. The Executive Engineer, Electrical Divisions, Punjab Public Works Department (B&R Branch) through its letter No.1190 dated 04.05.2017 along with a detailed list of outsourced workmen had informed PESCO about the decision taken by the Punjab Government that the workmen who did not fulfill the educational qualification of the respective categories are not eligible for appointment against the trade / category and that with effect from 01.04.2017 may be appointed as Helpers. Copy of letter is Exhibit 'RW2/1'. He deposed that the workmen were informed about the same and they were explained that in this way their employment at their present place of posting cannot continue and would have to be dispensed with based on qualification criteria but the workmen requested not to dispense their services and agreed to work as Helpers and accepted the wages & emoluments as admissible to the said post so they were adjusted on the post of Helpers and are discharging the duties of Helper and receiving the wages payable for it. The workmen never raised any objection in this regard with PESCO for about ten months and raised the dispute on 15.02.2018 with their demand notice.

13. Learned representative for management No.2 has argued that the demand notice has been raised by 24 workmen while claim statement has been filed by 23 workmen. He further argued that the PESCO has been incorporated under the Punjab Ex-Servicemen Corporation Act, 1978 for the welfare and economic upliftment of ex-servicemen in the State of Punjab and in pursuance of the award of outsourcing contract by Electrical Division, PWD, B&R Branch the workmen had been engaged on contractual basis for a specific period and having accepted the terms & conditions of employment pursuant to the offer of appointment, they are bound by the terms & conditions. The workmen have been / are being paid their due wages through their respective bank accounts. 80 workmen were appointed on contractual basis as Electricians, Generator Operators and Sub-station Attendants during 2013 & 14. The Executive Engineer, Electrical Division, Punjab Public Works Department (B&R) through their letter No.1190 dated 04.05.2017 along with list of outsource workmen informed the PESCO about the decision taken by the Punjab Government that the workmen who did not fulfill the educational qualification of the respective categories are not eligible for appointment against the trade / category and that with effect from 01.04.2017 may be appointed as Helper. He further argued that the workman was informed about the same and they were explained that in view of their employment at their present place of posting as Electrician, Generator Operator and Sub-Station Attendant cannot continue and would have to be dispensed with based on the qualification criteria. The workman requested not to dispense their service and agreed to work as Helper and accepted the wages but thereafter raised a dispute on 15.02.2018 with their demand notice so the workmen are not entitled to any relief as prayed for as the contractor is releasing the wages admissible to the workmen in their respective bank accounts. The period of employment of the workman on contract basis is for fixed terms & conditions under PESCO. MW1 examined by the management No.2 duly proved the oral as well as documentary evidence. He prayed for dismissal of the reference.

14. After giving my careful consideration to the rival contentions of the both the sides, I find that the workman have been engaged by PESCO in the year 2013-14 with effect from the dates as mentioned in the respective appointment letter on contractual basis for specific and the copy of their appointment Exhibit 'W3' to 'W22'. Hence the workman have been engaged by PESCO under the outsource contract by Electrical Division, Punjab Public Works Department (B&R) in the year 2013-14. Although the accepting the entry of their appointments by accepting the terms mentioned in their appointment letter as no workman can dispute or question the outsource contract between the management and the contractor as bogus and sham transaction since their appointment till the filing of claim statement i.e. 25.07.2018 and moreover the there is no iota of evidence to prove the said allegations.

15. The sole witness examined by the workman AW1 Shri Ravinder Singh categorically stated that all the workmen were well aware of the nature and terms of employment but have all accepted them without any undue influence, coercion or misrepresentation and the witness has shown his ignorance about the fact whether the said plea was taken by them in their demand notice dated 15.02.2017. Secondly the workman has not set

up any plea that they or any of them possess the requisite qualification for appointment as Electricians, Generator Operators and Sub-station Attendants. The only plea taken by the workmen and vehemently argued that since they have been working as such so the experience gained by them has become a substitute for the lack of requisite qualification. Learned representative for the workman placed reliance on citations **Budhi Nath Chaudhary Versus Abahi Kumar, Bhagwati Parshad & Others Versus Delhi State Mineral Corporation, Gujarat Agriculture University Versus Rathod Labhu Bechar, and D. K. Yadav Versus JMA Industries Limited (supra)** whereas as per oral as well as documentary evidence on record the Executive Engineer, Electrical Division, Punjab Public Works Department (B&R) wrote a letter No.1190 dated 04.05.2017 Exhibit 'RW2/1' along with detailed list of outsource workmen informing PESCO about the decision taken by Punjab Government that **the workman who did fulfill educational qualification criteria on respective categories are not eligible for appointment against the trade / category may be appointed as Helper.** As per averments of management No.2, the criteria has been informed to the workmen and they were duly explained about the same that they cannot continue and would be dispense with on the basis of qualification criteria and thereafter they were re-designated on the post of Helper. After admitting the same, all the workmen worked on the post of Helper for about ten months and thereafter filed the demand notice. They have already accepted the wages of Helpers. They have never raised any objection in this regard for about ten months. Moreover, it is admitted that the workman have been engaged on contractual basis for specific period. They are not regular employee. The arguments addressed by the learned representative for the workmen that they should be given wages as per their experience but if such an argument is accepted then it would imply that prescription of educational qualification as an essential eligibility condition for appointment would be rendered otiose or meaningless and it would create a situation when every person even without formal learning of the trade would claim appointment without complete knowledge. I am of the view that the Electrician, Sub-station Attendants are highly technical fields which require acquisition of special knowledge which cannot be attained by experience without any formal teaching from a duly recognized institution, rather it would violate Article 14 & 16 of the Constitution of India. So judgment relied upon by the workman are not applicable to the facts of the instant case. The workman has placed reliance on department of Labour Government of Punjab notification dated 15.11.2012 by which the minimum rates of wages in the State of Punjab have been revised after consultation with the Punjab Minimum Wages Advisory Board Exhibit 'W30' to show that an unskilled employee who works with some employer for a continuous period of ten years is placed in the semi-skilled category and such semi-skilled employee having worked for a further period of five years with the same employer is placed in skilled category but this argument of the workman also does not carry much weight as in view of the judicial pronouncement in **Hindustan Sanitaryware & Industries Limited Versus State of Haryana, 2019(2) SCT 772** wherein it is held that such categorization of unskilled employees as semi-skilled and semi-skilled as skilled on the basis of their experience is ultra vires. Secondly, the workman had admitted that they have come into the employment of PESCO in the year 2013-14. They have not completed 15 years of service under PESCO to be eligible to be considered as skilled employee. Further coming to the assertions of the workman to the effect that Section 6(2) of the Punjab Adhoc Contractual, Daily Wages, Temporary, Work Charged and outsource Employees' Welfare Act, 2016 stipulate that the persons taken on contract under section shall be entitled to draw the same salary as was being paid to him by private manpower agency is total misplaced. The foresaid act has been enacted to by the State of Punjab *"to provide for regularization of the services of Group 'A', 'B', 'C' & 'D' employees working on adhoc, contractual, daily wage, temporary and work charged basis under the State Government or its entities and further to take on contract basis, the out sourced employees working under the State Government or its entities"*. For regularizing or for appointment of outsource employee or contract with the Government or its entity one of the basic and pre-requisite condition is that the person must possess requisite educational qualification and experience as specified for the post under service rules at the time of initial appointment. The workmen in question did not fulfill the basic condition. Further Shri Ravinder Singh while stepping into the witness box as AW1 has admitted this fact that the contractor is bound to replace any workmen employed through principal employer instructs it to do so **in case the work and conduct is not proper or that he does not held the requisite qualification. The status of the workmen have been downgraded to Helpers from their earlier posts of Electrician /**

Generator Operator / Sub-Station Attendant by the contractor on the asking of management No.1.

On the other hand, MW1 also admitted that the salary of the workman was reduced as per document Exhibit 'RW2/1' and the workman was engaged as Helper on the basis of this letter.

16. Further as per judicial pronouncement by the Constitution Bench of Five Judges in case **Secretary, State of Karnataka & Others Versus Uma Devi & Others, 2006(2) SCT 462** it is held as under :—

"36. While directing that appointments, temporary or casual, be regularised or made permanent, courts are swayed by the fact that the concerned person has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with eyes open. It may be true that he is not in a position to bargain - not at arms length - since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succor to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of the Constitution of India."

Hence, long engagement of the workmen on temporary / daily wage basis does not confer any right for regularization in service upon them and outsource cannot have any claim of regularization against the outsource agency or the contractor. The workmen had not led any evidence to establish their entitlement for bonus / leave encashment except bald statement. So it is held that the demand raised in the demand notice dated 15.02.2018 made by the workmen is not genuine & justified.

17. As regards issue No.2 with regard to master-servant relationship between the workmen and management No.1 is concerned, it has been decided that admittedly, there is contract agreement between management No.1 & 2 and it is admitted by AW1 that PESCO is the contractor. Admittedly the contractor was bound to place any workmen on the asking of principal employee so there is no direct master-servant relationship between the workmen & management No.1.

18. In the light of discussion made above, issue No.1 is decided against the workmen and in favour of the management whereas issue No.2 is decided in favour of management No.1 and against the workman.

Relief :

19. In the light of findings on the issues above, this reference is declined and answered against the workmen. Appropriate Government be informed. File be consigned to the record room.

The 10th February, 2021.

(Sd.). . .,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal &
Labour Court,
Union Territory, Chandigarh.
UID No. PB0095

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 27th April, 2021

No. 13/1/9768-HII(2)-2021/4624.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 54/2015, dated 08.02.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

NIBHA PANDA D/O SHRI SUDHANSHU PANDA, R/O HOUSE NO. 791, MATA RAJ KAUR GURUDWARA, NEAR HDFC BANK, MANIMAJRA, CHANDIGARH (Workman)

AND

1. DIRECTOR HEALTH SERVICES, GOVERNMENT MEDICAL HOSPITAL, SECTOR 16, CHANDIGARH.
2. SMO/MEDICAL OFFICER, CIVIL HOSPITAL, MANIMAJRA, CHANDIGARH.
3. SECURE GUARD THROUGH ITS PARTNER RAJ BALA, PLOT NO. 151, PHASE - II, INDUSTRIAL AREA, CHANDIGARH (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that she was appointed as Security Guard on 06.06.2013 being appointed by management No.3 under the supervision of management and joined as such as per the duty roster prepared and signed by the Security Officer and Security Incharge, GMSH, Sector 16, Chandigarh and worked as such under the supervision of SMO / Incharge Civil Hospital, Manimajra, Chandigarh without any complaint in writing or verbal or enquiry. The Security Guards posted by respondent No.3

was deputed under the control of the management i.e. SMO, Civil Hospital, Manimajra, Chandigarh in connivance with the sister-Incharge of Civil Hospital, Manimajra, against the duty roster being signed time to time for the posting of the Security Guards in the different hospitals i.e. GMSH, Sector 16, Chandigarh, has been changed by the SMO, Incharge, CHC, Sector 22, Chandigarh and SMO, Incharge Civil Hospital, Manimajra, at their own by forging the duty roster at their will and whim and posted the Security Guard as per their choice against the duty roster supplied by the GMSH, Sector 16, Chandigarh under the signature of the Security Officer and Security Incharge. The workman being a lady, came to know this fact that the duty roster has been forged and changed at the end of the Sister-Incharge, Manimajra in connivance with the Security Guard posted in the Civil Hospital, Manimajra and thereafter, requested the SMO, Civil Hospital, Manimajra through letter dated 03.11.2014 to put all the Security Guards in rotation instead of putting some of the Security Guards in one shift i.e. morning only. Feeling annoyed from the letter written by her, the Sister-Incharge, Civil Hospital, Manimajra, in connivance with management initially made a rumor in the Civil Hospital, Manimajra to the effect that the workman has been gang-raped by the Security Guards posted in the Civil Hospital, Manimajra. Neither this incident was took place nor any complaint was made by the workman but this has been highlighted by the Sister-Incharge in connivance with one Security Guard just to defame the workman so that the workman will leave the job and ultimately, when the workman not agreed to leave the job, then on 05.01.2015 management No.2 in connivance with Sister-Incharge and other Security Guards, transferred the workman from Civil Hospital, Manimajra to GMSH, Sector 16, Chandigarh which was received by her on 06.01.2015 and accordingly, she joined the duty at GMSH, Sector 16, Chandigarh on 07.01.2015. Against the said illegal & unlawful replacement of the workman in connivance with the sister-Incharge, Manimajra, the workman made a request to the Health Director, GMSH, Sector 16, Chandigarh on 06.01.2015 for stopping of transfer as well as request to the Security Incharge to put the workman on Night duty but her request was not acceded to. When her grievances were not heard by management No.1 & 2 then the workman approached to the Home Secretary, Chandigarh *vide* letter dated 12.02.2015 and request therein to redress her grievances. The said letter was marked by the Secretary Health to the Director Health Service *vide* letter No.45991 dated 12.02.2015. Instead of redressing the grievances of the workman, management No.3 under the pressure of management No.1 & 2, sought explanation of the workman *vide* letter dated 04.01.2015 without referring the name of the complainant or copy of the complaint and in reply thereto. In reply thereto, the workman has specifically given reply through letter dated 06.01.2015 and against requested therein that her grievances be redressed as per request letter dated 03.11.2014 as letter under reference is counter to the request of the workman and further a ground to make a ground for illegal termination of the workman from the services. Management No.3 *vide* letter dated 28.02.2015 issued show cause notice and suspended the workman from service but continuously taken the duty from the workman with effect from 28.02.2015 to 05.03.2015. On 06.03.2015, the workman was not allowed to join duty by the Security on the direction of management No.1 to 3 in connivance with each other by saying that the services of the workman has already been stand terminated with effect from 05.03.2015. Action of the management to illegally & unlawfully terminate the services of the workman is against the principal of natural justice and provisions of the ID Act. No inquiry for alleged false and frivolous vulgar complaint has been held and the services of the workman is being illegally terminated just to put the workman on starvation and in rebuttal as to how she dare to ask the authorities for copy of the duty roster which the officials of management No.3 in connivance with each other forged the duty roster and put the workman for other shifts which was not assigned in the duty roster sanctioned and approved by the officials of the management No.1 i.e. Security Officer and Security Incharge on every month. Ultimately, it is prayed that the workman be reinstated with all consequence benefits including continuity of service, back wages and all attended benefits from the date of illegal termination.

3. Management No.1 & 2 contested the case of the workman and filed written statement that the workman was appointed as Security Guard on outsource basis by management No.3 i.e. M/s Secure Guard and was posted at Civil Hospital, Manimajra, Chandigarh. She was employee of management No.3 for all intents & purposes and had no relationship of employer & employee with management No.1 & 2. No cause of action arisen against the answering management. The workman being the employee of management No.3 could not make direct correspondence with the answering management and for that conduct management No.3 was also written letter by management No.1. Allegation regarding forging of the roster register is wrong. Transfer of the workman from the Civil Hospital, Manimajra, Chandigarh to the Government Multi-specialty Hospital, Sector 16, Chandigarh was initiated at the level of management No.3 itself being her employer. Letter dated 06.01.2015 was forwarded to management No.3 on 24.02.2015, being her exclusive employer, for necessary action on the same with a specific request that persons so deployed by him may be specifically directed not to make direct correspondence with management No.1, since the workman was the employee of management No.3 for all intents & purposes and had no relationship of employer & employee with management No.1 & 2. No action was called for at the level of answering management, since she was employee of management No.3 and the workman was terminated by management No.3 being her employer and that too on the basis of her work & conduct as complained by the staff posted at Civil Hospital, Manimajra, Chandigarh. Ultimately, it is prayed that the claim of the workman be dismissed.

4. Management No.3 contested the case of the workman and filed written statement that the workman was appointed as contractual-outsourced Security Guard by the answering management and deputed at Civil Hospital, Manimajra. The answering management started receiving number of verbal and written complaints against the workman from fellow staff, patients or attendants etc., which the answering management tried to solve through personal counseling. The duty roster never tampered / fabricated at the behest of any authority to please any employee. The answering management has no role in the same. Since the workman was an outsource and contractual employee, she had no direct connection with management No.1 & 2 and her letter dated 03.11.2014 was not in the knowledge of answering management. There have been numerous complaints against her from her fellow colleagues, patients and attendance thereof, of misbehave with them. The answering management had been counseling the workman from time to time with nil results so the management has no other option than to issue her a show cause notice on 04.01.2015. Further to give her another chance to prove herself answering management transferred the workman to new working environment to perform better at GMSH-16 vide movement order dated 05.01.2015. The workman submitted her reply on 06.01.2015 denying all allegations. Being outsourced employee, the workman was not authorized to correspond with management No.1 & 2 directly and if she had any complaints or grudges, she could have approached the answering management. The workman had directly corresponding with the Health Secretary. The answering management had received a letter from management No.1 on 24.02.2015 directing the Medical Superintendent *"to direct the persons' employed by you, not to make any direct correspondence or personal visits directly with office in future"*. This directive has come as a result of workman's direct representation to the Health Director on 06.01.2015. On 25.01.2015, the answering management received a letter from management No.1 to withdraw the workman and give replacement in lieu. The workman was issued show cause notice by management No.3 to seek her reason for direct correspondence with management No.1 and the Health Secretary though the answering management have got clear instructions to withdraw the workman for her behaviour and conduct. The workman instead of apologizing for her action, put the blame on others and threatened vide her reply dated 04.03.2015. The answering management received memo dated 04.03.2015 from management No.1 instructing the answering management to direct the persons employed them not to make any direct communication / reference with their office, being the employee of service provider for all intents & purposes. Feeling aggrieved, the office of management No.3 have no other option than to issue termination of employment letter dated 05.03.2015, which was routed through the Security Supervisor posted as GMSH-16, which the workman refused to accept. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

5. The workman filed replications reiterating the averments of her case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Whether there is no relationship of employee & employer in between workman & management No.1 & 2 ? OPM-1 & 2
3. Relief.

6. In support of the case, the workman stepped into the witness box as AW1 and closed the evidence. On the other hand, management No. 1 & 2 examined Dr. Arun Kumar Bansal - Senior Medical Officer, Incharge, Civil Hospital, Manimajra as MW1 whereas management No.3 examined Shri Parveen Yadav - Manager as MW2, Shri Mahi Pal - Security Supervisor as MW3, Shri Bahadur Singh - Security Guard as MW4, Shri Gurmeet Singh - Security Guard as MW5, Smt. Sunita - Security Guard as MW6, Shri Pankaj - Security Guard as MW7 and Shri Baljeet Singh - Security Guard as MW8. Learned Law Officer for management No.1 & 2 and learned representative for management No.3 closed the evidence.

7. I have heard learned representative for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows:-

Issue No.1& 2 :

8. Both these issues are taken up together in order to avoid repetition of discussion for the sake of convenience. In order to prove her case, the workman herself stepped into the witness box as AW1 and deposed that she was appointed as Security Guards on 06.06.2013 being appointed by management No.3 under the supervision of management and joined as per duty roster prepared and signed by the Security Officer, GMSH, Sector 16, and the Security Incharge, GMSH, Sector 16 and worked under the supervision of SMO / Incharge, Civil Hospital, Manimajra, Chandigarh without any complaint in writing or verbal or inquiry. She further deposed that the Security Guards posted by management No.3 was deputed under the control of management i.e. SMO, Civil Hospital, Manimajra, Chandigarh in connivance with the Sister-Incharge of Civil Hospital, Manimajra against the duty roster being signed from time to time for the postings of Security Guards in different hospital i.e. management No.1 GMSH, Sector 16, Chandigarh has been changed by SMO, Incharge, CHC, Sector 22, Chandigarh and SMO In-charge, Civil Hospital, Manimajra, at their own by forging the duty roster at their will & whims and posted the Security Guards as per their choice against duty roster supplied by GMSH, Sector 16, under the signature of Security Officer and Security Incharge. She when come to know that duty roster has been forged and changed, wrote letter dated 03.11.2014 to put all the Security Guards in rotation instead of putting some of the Security Guards in one shift i.e. morning only. Copy of letter dated 03.11.2014 is Mark '1'. Then the Sister Incharge, Civil Hospital, Manimajra felt annoyed with letter dated 03.11.2014 in connivance with management initially made a rumour in the Civil Hospital, Manimajra that herself has been gang-raped by the Security Guards posted in the Civil Hospital, Manimajra but this thing has been highlighted by Sister Incharge in connivance with one Security Guard just to defeat herself so that she will leave the job. When the workman not agreed to leave the job, on 05.01.2015 she was transferred from Civil Hospital, Manimajra to GMSH, Sector 16, which was received by herself on 06.01.2015. Accordingly she had joined the duty at GMSH, Sector 16, Chandigarh on 07.01.2015. Copy of letter dated 05.01.2015 Mark '2'. She further deposed that against the illegal & unlawful replacement of herself, she made a request to the Health Director, GMSH, Sector 16 on 06.01.2015 for stopping of transfer as well as requested the Security Incharge to put her on night duty but her request was not acceded to. Letter dated 06.01.2015 is Mark '3' & '3A'. When her grievances was not heard she approached the Home Secretary, Chandigarh *vide* letter dated 12.02.2015 Mark '4'. Further the management No.3 under pressure of management No.1 & 2 sought explanation of herself *vide* letter dated 04.01.2015 without referring any complaint or copy of complaint. She give reply *vide* letter dated 06.01.2015. Copy of letter dated 04.01.2015, 06.01.2015 are Exhibit 'W1' & Mark '6'

and Mark 'A'. Then management No. 3 *vide* letter dated 28.02.2015 issued show cause notice and suspended herself from services but continuously took the duty from her with effect from 28.02.2015 to 05.03.2015. On 06.03.2015 she was not allowed to join the duty by the Security on the directions of management No. 1 to 3 by saying that her services have been terminated. Copy of letter dated 28.02.2015 is Exhibit 'W2' and reply to show cause notice Exhibit 'W2/A'. She further deposed that action of the management is illegal & unlawful and termination of services of herself is against the principles of natural justice and provisions of the ID Act. No inquiry for the alleged false and frivolous complaint has been made. She further deposed that management No.1 & 2 having relationship of employer-employee with herself. Management No.3 employed her under the overall supervision and control of management No.1 & 2.

9. Learned representative for the workman vehemently argued that the present dispute has been arisen between the workman and management of Director Health Service and others i.e. management No. 1 to 3 on account of illegal termination on 05.03.2015 without holding any inquiry, without giving any retrenchment benefits and illegal appointment of other workmen in place of the present workman. He argued that the workman was appointed on 04.06.2013 Exhibit 'P/X' in the office of management No.2 initially through the assignment of duty by management No.1 on being recommended for placement by management No.3 and from day of joining till the workman approached management No.2 through complaint dated 03.11.2014 Mark '1' for giving duty to some workers in morning only and others in two shifts. Even in the duty roster for the month of December 2014 prepared by management No.1, supplied to management No.2, they at their own level made the changes in the duty roster. She further proved Mark '2' whereby she has been transferred to office of management No.1 and during entire period till illegal termination at General Hospital, Sector 16, Chandigarh there is no complaint against the workman. She proved the contract agreement Exhibit 'WX1'. Learned representative for the workman has referred to cross-examination of MW3 Mahipal - Supervisor in which he has admitted therein signature of Shri Harbhajan Singh - Security Officer at point 'A', 'B', 'C', 'D' & 'F' and at point 'B' signature of Shri D. C. Sharma and the witness has not denied the changes made at Page No.4, while confronting to the witness Page No. 5. Other witness of the management i.e. MW1, MW2, MW4 & MW8 also not denied this fact of roster but the Supervisor being engaged and worked under the control of management No.1 and appointed by management No.3 admitted that the duty roster was being prepared at the level of management No.1 *qua* the workers of respective hospitals.

10. Learned representative for the workman has argued that further MW1 admitted that the record is maintained at the level of the hospital at Manimajra, Chandigarh but on the other hand, he had not produced the same and even denied its knowledge. Further no inquiry has been conducted by the SMO and DHS. It is admitted by the witness Shri Baljit Singh, MW8 that the name of the worker mentioned on Mark 'A' are co-worker of the workman. MW2 Shri Parveen Yadav admitted that as per letter dated 24.02.2015 Exhibit 'RW1/D' and Exhibit 'RW1/E' he was asked to provide replacement of the workman Nibha Panda by management No.1 and he admitted that as per the instructions of the department they had terminated the services of the workman on 05.03.2015 and they had not given any compensation in lieu of termination on 05.03.2015 and the agreement Exhibit 'WX1' is admitted by himself. Learned representative for the workman has argued that the relationship of master and servant with management No.1 to 3 is clearly proved on record. All are responsible for illegal termination without holding inquiry, without payment of retrenchment benefits and retaining of juniors and giving fresh appointment so termination dated 05.03.2015 is illegal. He prayed for setting aside termination order and reinstatement of the workman with all service benefits, seniority, back wages etc. and payment of provident fund from the period of termination till the date of reinstatement.

11. On the other hand, management No.1 & 2 examined Dr. Arun Kumar Bansal, who deposed that he is working as Senior Medical Officer. The workman was appointed as Security Guard on outsource basis by management No.3 i.e. M/s Secure Guard Manpower & Security Services. As per agreement being executed

between management No.1 and 3, there was specific condition in the agreement *qua* relationship of persons deployed by the service provider to management No.1 so the workman was employee of management No.3. The workman was posted at Civil Hospital, Manimajra under the supervision of management No.2 but over all control was of management No.3. He further deposed that *vide* letter dated 27.12.2014 the management No.3 had intimated management No.1 with a request that over a period of time they had been received the complaints against the behaviour and conduct of Ms. Nibha Panda i.e. workman and it is also informed that in the said letter that recently all Guards of the site submitted a joint complaint against the same Lady Guard requesting replacement of Lady Guard in question. Management No.3 had number of times instructed the workman to maintain the decorum but she did not pay heed to any of their instructions. Copy of letter dated 27.12.2014 is Annexure 'RW1/A'. On 05.01.2015 *vide* replacement order management No.3 informed management No.1 that the workman would leave from Civil Hospital, Manimajra, Chandigarh to Government Multi Specialty Hospital, Sector 16, Chandigarh and *vide* this movement order management No.3 also transferred the services of three other Security Guards from first place to other. Copy of order letter dated 05.01.2015 is 'RW1/B'. On 06.01.2015 the workman requested management No.1 to stop her transfer, copy of which is Annexure 'RW1/C'. Further management No.1 wrote letter to management No.3 on 06.01.2015 with specific request to direct the persons deployed by them not to make any correspondence directly with office of management No.1. Copy of letter dated 24.02.2015 is Annexure 'RW1/D', another letter dated 25.02.2015 was written by the said authority in reference to letter dated 27.12.2015 with request to send the eligible candidate as per terms & condition to provide replacement of the workman. Copy of 25.02.2015 is Annexure 'RW1/E.' He further deposed that the workman did not follow the instructions of office of management No.1 which was issued regarding not to make any type of correspondence with the higher authorities of the Health Department but the workman again made correspondence with the Home Secretary-cum-Secretary Health, Chandigarh Administration *vide* letter dated 12.02.2015 Annexure 'RW1/F'. Further the Deputy Medical Superintendent of Government Multi-Specialty Hospital, Sector 16, Chandigarh has proposed and approved that no direct application can be entertained from the officials who are deputed by the service provider. Copy of noting portion is Annexure 'RW1/G'. Circular dated 04.03.2015 issued by office of management No.1 with the specific instructions. Copy of circular dated 04.03.2015 is Annexure 'RW1/H'. He further deposed that no cause of action arose against management No.1 & 2 as no such termination order was issued by management No.1 & 2. The workman was employee of management No.3 for all intents & purposes.

12. Learned Law Officer for management No.1 & 2 has argued that the workman was appointed as Security Guard on outsource by management No.3 and there was no relationship master-servant between the workman and management No. 1&2. On 27.12.2014 management No.3 intimated management No.1 that over a period of time they had been receiving the complaint of behaviour & conduct of the workman posted at Civil Hospital, Manimajra, Chandigarh and all the Guards of the site had submitted joint complaint against Lady Guard. Management No.3 instructed number of times to maintain the decorum but despite that the workman had not paid any heed to instructions. Ultimately after considering the growing pressure of personnel deputed, they intended to withdraw the workman immediately to avoid any untoward incident. Copy of letter dated 27.12.2014 is Annexure 'RW1/A'. He further argued that the management had proved letter dated 05.01.2015 which is replacing order / movement order by management No.3. The management also proved copy of letter of the workman dated 06.01.2015. He further argued that that letter issued by the department to direct the person deployed by the outsource agency not to make any correspondence directly with the office of management No.1 Annexure 'RW1/D'. The management wrote letter to management No.3 in reference to letter dated 27.12.2014 Annexure RW1/A' to send eligible candidate as per terms &

conditions of agreement along with complete document to provide replacement of the workman. He further argued that the workman did not follow the instructions issued by management No. 1 and again wrote letter to Home Secretary-cum-Secretary Health, Chandigarh on 12.02.2015. Relevant portion of noting whereby management No.1 approved the proposal to circulate the instructions that no direct application will be entertained from the officials deputed by the service provider is Annexure 'RW1/G'. *Vide* circular dated 04.03.2015 specific instructions issued by management No.1 Annexure 'RW1/H'. He further argued that the workman was employee of management No.3 for all intents & purpose and was terminated by management No.3, being its employee, due to work & conduct, complaint by the staff posted at Civil Hospital, Manimajra. He prayed for dismissal of the present industrial dispute *qua* management No.1 & 2.

13. Management No.3 examined Shri Parveen Yadav as MW2, who deposed that the present complaint has been filed by the complainant-workman alleging wrong information with *mala fide* intentions and concealing material facts. The workman has not come to the Court with clean hands. Management No.3 is the service provider outsource agency, who are bound to follow the instructions of Government issued to them from time to time being the creation of State itself. The workman had not complied with terms & conditions. He deposed that that management received number of verbal and written complaints from the fellow staff, patients and attendants thereof. Copy of the same is Annexure 'R3/1', 'R3/2'. The workman was outsource and contractual employee. She has no direct connection with management No.1 & 2 and management No.3 received various complaints against her so issued show cause notice dated 04.01.2015. Further to give her another chance to improve herself the management transferred the workman to new working environment to perform better at GMSH, Sector 16 *vide* movement order dated 05.01.2015. The workman submitted her reply denying all allegations. Copy of three letters of management and one reply of letter of the workman, dated 04.01.2015, 05.01.2015, 07.01.2015 and 06.01.2015 respectively are Annexure 'R3/3' to 'R3/6'. Further the management received letters from management No.1 on 24.03.2015 directing the Medical Superintendent to direct all the persons employed by them not to make any direct correspondence or personal visit directly with office in future. Copy of letter dated 24.02.2015 and dated 25.02.2015 is Annexure 'R3/7' and 'R3/8'. The workman was issued show cause notice by management to seek workman's reasons for direct correspondence with the Health Secretary and Director Health, though answering management received clear instructions to withdraw the workman for her behaviour & conduct, to give her one more chance but instead of apologizing for her action and *vide* reply dated 04.03.2015 she put blame on other and threatened. Management No.1 instructed the answering management to direct the persons employed by it, not to make any direct communication / reference with their office, being employee of service provider for all intents & purposes. Thereafter the office of management No.3 have no other option to issue termination of employment dated 05.03.2015 which was routed through Security Supervisor posted at GMSH, Sector 16, which the workman refused to accept. Copy of letter dated 28.02.2015 and 04.03.2015 of management No.1 and reply of the workman dated 04.03.2015 is Annexure 'R3/8', 'R3/9' & 'R3/10'. Termination of the employment order dated 05.03.2015 was taken by Shri Mahipal to the workman Nibha Panda, to which she refused to accept and the said letter was sent through speed post through courier on 07.03.2015. Copy of the same is Annexure 'R3/10A', 'R3/10B' & 'R3/10C'. The salary of the workman towards account settlement was also prepared and was informed to her through registered letter dated 12.03.2015 & 30.03.2015, copy of the same is Annexure 'R3/11' 'R3/12'.

14. Further management No.3 examined MW3 Shri Mahipal deployed as Security Supervisor in M/s Secure Guard Security & Manpower Services clearly deposed that he was given letter dated 05.03.2015 by his employer M/s Secure Guard Security & Manpower Services to handover to Mrs. Nibha Panda. He along with Shri Bahadur Singh - Security Guard went to deliver the said letter but she refused to receive. MW4 Shri Bahadur Singh - Security Guard reiterated the version stated by MW3. MW5 deposed that he and Shri Baljit Singh, Mrs. Sunita, Shri Pankaj Kumar were also working with the workman Nibha Panda as

Security Guard. Complaints dated 26.12.2014 and 30.12.2014 were made by them due to callous behaviour of Nibha Panda. MW6 & MW7 also reiterated the version stated by MW5. MW8 also proved the complaint dated 26.12.2014 & 30.12.2014 made against Nibha Panda.

15. Learned representative for management No.3 has argued that it has been duly proved through oral as well as documentary evidence on record that the workman was given appointment as per agreement between management No.1 and management No.3 as Security Guard. There is no direct relationship of employer-employee between management No.1 & 2 and the workman. Management No.3 is in the business of outsourcing manpower to held the principal employers and management No.3 is bound to follow the instructions of Government as per terms & conditions entered into but the workman disobeyed the instructions of the management and despite receiving letters / communication she did not brother instruction. Later on she was terminated the services after following proper procedure. He prayed for dismissal of the present industrial dispute.

16. After giving my careful consideration to the rival contention of both the parties, I find that admittedly the workman was appointed as Security Guard on outsource basis by management No.3 on 04.06.2013 in the office of management No.2 initially through the assignment of duty by management No.1 on being recommended for placement by management No.3 and from the date of joining till she approached to management No.2 through complaint dated 03.11.2014 for giving duties to some workers in morning only and others in two shifts. Now the main grudge of the workman is that management No.1 to 3 had illegally terminated her from service on 05.03.2015 without holding any inquiry, without giving retrenchment compensation, benefits and illegal appointment of other workers in place of the present workman. As per the agreement Exhibit 'WX1', M/s Secure Guard was awarded contract for providing the security service and the Security Guards are bound to follow instructions / orders of the service provider, as per terms of the agreement entered into between the employer and employee. But as per letter issued by the Manager, M/s Secure Guard to the workman Nibha Panda that they are getting regular complaints against her from time to time and sought her explanation as to why her services were terminated with immediate effect, which was duly received by the workman on 04.01.2015. Then again show cause notice was issued to 'A1/2' to the workman by Manager, M/s Secure Guard, management No.3 which was duly received by the workman on 28.02.2015. Then *vide* Exhibit 'AW1/3' the workman made reply by denying the allegations and rather wrote to withdraw notice otherwise she will moved to higher authority. Admittedly, as per the movement order Mark 'B' the workman was transferred to Civil Hospital, Manimajra to GMSH, Sector 16, Chandigarh. Then the workman moved letter to the Health Director to stop the transfer letter on 06.01.2015 Mark 'D'. Then again wrote letter dated 12.02.2015 to Home Secretary Mark 'E'. MW1 Dr. Arun Kumar duly proved the letter dated 27.12.2014 Exhibit 'RW1/A' written by M/s Secure Guard to the Director Health & Family Welfare informing withdrawal and replacement of one lady Security Guard at Manimajra as they have been receiving complaints against the conduct of the workman Nibha Panda posted at Manimajra. Exhibit 'RW1/B' is the movement order of the workman along other Security Guards and Exhibit 'RW1/C' is the letter written by the workman to the Health Director, GMSH, Sector 16, Chandigarh for stopping her transfer. *Vide* Exhibit 'RW1/D' the Medical Superintendent, Government Multi-Specialty Hospital, Sector 16, Chandigarh sent copy of letter Exhibit 'RW1/C' to management No.3 i.e. M/s Secure Guard for necessary action and requested to direct the persons deployed by them not to make any correspondence directly with the office. Exhibit 'RW1/E' letter dated 25.02.2015 to M/s Secure Guard to withdraw and replace Lady Security Guard (Ms. Nibha Panda) deputed at Civil Hospital, Manimajra. Exhibit 'RW1/H' is circular whereby all the service providers were asked to direct the persons deployed by them not to make any direction communication with the office being employees

of service provider for all intents & purposes. Management No.3 has proved on record Annexure 'R3/3' show cause issued to the workman, duly received by her on 04.01.2015 that they are getting regular complaints against her and sought her explanation. Further final warning letter dated 07.01.2015 Annexure 'R3/5' was issued to the workman and on 05.03.2015 letter was issued by M/s Secure Guard to the workman for termination of employment and that letter has been refused to receive by the workman when handed over to her by one Shri Mahipal - Supervisor Security Guard. Then on 07.03.2015 against letter of termination Annexure 'R-3/10-B' was issued informing that the workman refused to receive the same and they are sending the same to her registered address through courier. Further letter sent by M/s Secure Guard to the workman for accounts settlement Annexure 'R3/11', reminder of letter accounts settlement Annexure 'R3/12 & Mark 'A'. In order to support its case management No.3 examined MW4 Shri Bahadur Singh, who was deployed to hand over letter to the workman, which was refused by the workman. MW8 Shri Baljeet Singh also proved that complaints dated 26.12.2014 & 30.12.2014 were made by him and other Security Guards. Though lengthy cross-examination conducted by the workman but no favourable could be brought out by the workman rather during course of arguments the workman herself admitted that complaint against her was giving in writing. Meaning thereby she herself is admitting that a complaint was lodged against herself and she herself failed to give satisfactory reply to the show cause notice and has not complied with the terms & conditions of the agreement Exhibit 'WX1' and despite repeated warning and circular she wrote directly to the Director Health Service and Secretary Health whereas she is outsource employee deployed by management No.3. Further the workman during her cross-examination conducted by management No.3 admitted that it is correct that she had received letter on 04.01.2015 and she had also received letter dated 07.01.2015 i.e. is show cause notice cum warning. She further admitted that he had also submitted her reply and she was transferred from Manimajra to GMSH, Sector 16, Chandigarh and she had received letter on 28.02.2015. She stated that she had been shown letter dated 05.03.2015 regarding her termination and she had declined to receive the same. She had received a letter dated 12.03.2015 regarding settlement of account and in reply thereto she had submitted reply to management No.3. So enough opportunities have been granted by management No.3 to the workman to putforth her side. In the light of discussion made above, the workman has failed to prove that her services were terminated illegally by the management and there is direct relationship of employee & employer in between workman & management No.1 & 2 Accordingly, issue No.1 is decided against the workman and in favour of the management whereas issue No.2 is decided in favour of management No.1 & 2 and against the workman.

Relief :

17. In the light of findings on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 8th February, 2021.

(Sd.). . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal &
Labour Court,
Union Territory, Chandigarh.
UID No. PB0095

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Notification

The 28th April, 2021

No. C-45063.FII-(8)-2021/4719.—In exercise of the powers conferred by Section 5 (2) of the Punjab Municipal Corporation Act, 1976, as extended to the Union Territory, Chandigarh by the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, the Administrator, Union Territory, Chandigarh, is pleased to fix the number of elected Councillors of the Municipal Corporation of Chandigarh as "Thirty Five".

ARUN KUMAR GUPTA, IAS,
Principal Secretary Local Govt.
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Order

The 28th April, 2021

No. C-45063.FII-(8)-2021/4726.—In exercise of the powers conferred by Section 6 (1) of the Punjab Municipal Corporation Act, 1976, as extended to the Union Territory, Chandigarh by the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, (Act No. 45 of 1994), the Administrator, Union Territory, Chandigarh, is pleased to determine the number of seats of Councillors reserved for women belonging to the Scheduled Castes to be filled up by direct election as "Three".

ARUN KUMAR GUPTA, IAS,
Principal Secretary Local Govt.
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Notification

The 28th April, 2021

No. C-45063.FII-(8)-2021/4733.—In exercise of the powers conferred by Section 5 (4) of the Punjab Municipal Corporation Act, 1976 as extended to the Union Territory, Chandigarh by the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, (Act No. 45 of 1994), the Administrator, Union Territory, Chandigarh, is pleased to determine the number of seats of Councillors reserved for members of Scheduled Castes to be filled by direct election as "Seven".

ARUN KUMAR GUPTA, IAS,
Principal Secretary Local Govt.
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Order

The 28th April, 2021

No. C-45063.FII-(8)-2021/4740.—In exercise of the powers conferred by Section 6 (2) of the Punjab Municipal Corporation Act, 1976, as extended to the Union Territory, Chandigarh by the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, (Act No. 45 of 1994), the Administrator, Union Territory, Chandigarh, is pleased to determine the number of seats of Councillors reserved for women (including the number of seats reserved for women belonging to the Scheduled Castes) to be filled by direct election as "Twelve".

ARUN KUMAR GUPTA, IAS,
Principal Secretary Local Govt.
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Order

The 29th April, 2021

No. C-16707-FII(8)-2021/4769.—In exercise of the powers conferred by Section 41E of the Punjab Municipal Corporation Act, 1976 (as extended to U.T., Chandigarh) Act, 1994, the Administrator, Union Territory, Chandigarh is pleased to constitute the following 09 (Nine) Special Committees for the exercise of powers or discharge of functions mentioned against each of the Committees :—

1. **Sanitation Committee :**

1. Sh. Bharat Kumar
2. Sh. Shakti Prakash Devshali
3. Smt. Farmila
4. Smt. Asha Jaswal
5. Sh. Jagtar Singh
6. Smt. Sunita Dhawan
7. Smt. Sheela Devi
8. Sh. Charanjiv Singh
9. Ms. Shipra Bansal

2. **Environment & City Beautification Committee :**

1. Sh. Sachin Kumar Lohtiya
2. Smt. Gurbax Rawat
3. Smt. Heera Negi
4. Sh. Hardeep Singh
5. Sh. Vinod Aggarwal
6. Sh. Rajesh Gupta
7. Sh. Satish Kainth
8. Dr. Jyotsna Wig
9. Maj. Gen. M.S. Kandal

3. **Electricity Committee :**

1. Sh. Kanwarjeet Singh
2. Sh. Haji Mohd. Khurshid Ali
3. Sh. Rajesh Kumar
4. Sh. Daves Moudgil
5. Sh. Anil Kumar Dubey
6. Sh. Devinder Singh Babla
7. Sh. Ajay Dutta
8. Sh. Sat Parkash Aggarwal
9. Sh. Sachin Kumar Lohtiya

4. Fire & Emergency Services Committee :

1. Sh. Gurpreet Singh Dhillon
2. Sh. Sachin Kumar Lohtiya
3. Sh. Mahesh Inder Singh
4. Sh. Davesch Moudgil
5. Sh. Dalip Sharma
6. Sh. Hardeep Singh
7. Sh. Satish Kainth
8. Smt. Ravinder Kaur Gujral
9. Sh. Haji Mohd. Khurshid Ali

5. Apni Mandi & Day Market Committee :

1. Smt. Chanderwati Shukla
2. Sh. Rajesh Kumar
3. Smt. Raj Bala Malik
4. Sh. Gurpreet Singh Dhillon
5. Sh. Jagtar Singh
6. Smt. Sunita Dhawan
7. Smt. Sheela Devi
8. Smt. Kamla Sharma
9. Dr. Jyotsna Wig

6. Women Empowerment Committee :

1. Smt. Ravinder Kaur Gujral
2. Smt. Asha Jaswal
3. Smt. Farmila
4. Smt. Raj Bala Malik
5. Smt. Heera Negi
6. Smt. Sunita Dhawan
7. Smt. Chanderwati Shukla
8. Smt. Sheela Devi
9. Smt. Shipra Bansal

7. Enforcement Committee :

1. Smt. Asha Jaswal
2. Sh. Shakti Prakash Devshali
3. Sh. Mahesh Inder Singh
4. Sh. Arun Sood
5. Sh. Rajesh Kumar
6. Sh. Bharat Kumar
7. Smt. Ravinder Kaur Gujral
8. Sh. Charanjiv Singh
9. Sh. Sachin Kumar Lohtiya

8. Slum, Colonies & Village Development Committee :

1. Sh. Jagtar Singh
2. Sh. Kanwarjeet Singh
3. Smt. Raj Bala Malik
4. Sh. Anil Kumar Dubey
5. Sh. Rajesh Gupta
6. Sh. Dalip Sharma
7. Smt. Sheela Devi
8. Sh. Satish Kainth
9. Sh. Sat Parkash Aggarwal

9. Arts, Culture & Sports Committee :

1. Ms. Shipra Bansal
2. Smt. Heera Negi
3. Sh. Davesb Moudgil
4. Sh. Gurpreet Singh Dhillon
5. Sh. Vinod Aggarwal
6. Sh. Hardeep Singh
7. Smt. Gurbax Rawat
8. Sh. Devinder Singh Babla
9. Sh. Ajay Dutta

The term of all the committees shall be co-terminus with the terms of Mayor.

ARUN KUMAR GUPTA, IAS,
Principal Secretary Local Govt.
Chandigarh Administration.

CHANGE OF NAME

I, Anjali, D/o Sh. Raj Kumar Jindal, R/o # 1361, Sector 20-B, Chandigarh, have changed my name from Anjali to Anjali Jindal.

[251—1]

I, Neeraj, S/o Sh. Rajbir, R/o # 60, Indira Avas Colony, Ramdarbar, Chandigarh, have changed my name to Neeraj Kumar.

[252—1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."